(20)

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Misc. Appeal No. 27 of 2006**

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| **APPELLANT CLAIMANT** | : | Nayan Das, son of Taturam, Resident of village Dhadhutola, Bandha Bazaar, P.S. Ambagarh Chowki, Tahsil Ambagarh Chowki, District Rajnandgaon (C.G.) |
| | | Versus |
| **RESPONDENTS NON-APPLICANTS** | : 1 | Sitaram Gauri Shankar Khandelwal, Proprietor Shri Gopal Khandlwal, Resident of Bus Stand, Rajnandgaon (C.G.) |
| | : 2. | Branch Manager, National Insurance Company Limited, Branch Kamthee Line, Rajnandgaon (C.G.) |

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Shri Pankaj Agrawal, Counsel for the appellant/claimant.
Shri Anup Mazumdar, Counsel for respondent No.1.

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**ORAL ORDER**
(Passed on 20.3.2007)

The following oral order of the Court was passed by **Dilip Raosaheb Deshmukh, J.**

Heard.

2. Shri Pankaj Agrawal, learned counsel for the appellant did not dispute the following findings recorded by the learned Commissioner for Workmen's Compensation:

a) that the assessment of the age of the claimant was 34 years,

b) that the relevant factor applicable was 199.40,

c) the monthly income of the claimant was Rs.3300/- per month, and

d) under Section 4 of the Workmen's Compensation Act, 1923, the learned Commissioner has rightly calculated 60% of the monthly income and arrived at the amount of Rs.1980/-.

3. The only point urged by the learned counsel for the appellant is that the claimant had suffered 100% permanent disability inasmuch as due to

the fracture in the right patellae right bone he was completely incapacitated for performing his duties as driver. Reliance was placed on Schedule I part-II and Amputation cases entry No.21. However, this clause is not applicable because it relates to amputation cases. So far as contention of the learned counsel for the appellant is concerned, it is unacceptable because the medical evidence adduced by the claimant clearly revealed that the claimant had suffered only 20% disability. Apart from this fact, it is also pertinent to note that the appellant-claimant did not examine the treating physician and also did not prove X-ray report. In this view of the matter, the compensation arrived at by the learned Commissioner for Workmen's Compensation, Rajnandgaon is just and reasonable compensation and calls for no interference in this appeal.

4. The appeal being devoid of merit is dismissed.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani